

SYN. NO. _____

AGN. NO. 49-B

MOTION BY SUPERVISOR ZEV YAROSLAVSKY

October 30, 2007

Pursuant to State law, when real property is conveyed or transferred, the County is authorized to levy a transfer tax, also known as a Documentary Transfer Tax, at a rate of \$1.10 for every \$1,000 of property value. Several chartered cities have also exercised their authority to impose an additional transfer tax of as much as \$4.50 per \$1,000. The transfer tax applies to the transfer of majority ownership in any property exceeding \$100 in value – whether a single family home, a retail or commercial building or a multi-building real estate portfolio.

The transfer tax generates significant revenues for cities and counties. In fiscal year 2005-2006, Los Angeles County collected \$97 million at the \$1.10 rate on behalf of the County, and \$214 million at the \$4.50 rate on behalf of the City of Los Angeles.

Generally, the transfer tax is paid at the time a deed evidencing a sale is recorded with the Los Angeles County Registrar-Recorder/County Clerk (RR/CC). However, properties may be transferred by change of ownership within a business entity, not by deed. In Los Angeles County, there have been many transfers in which a corporation or partnership's controlling interest is transferred but no grant deed is recorded. Controlling interests in portfolios of high-rise office buildings and multi-million dollar commercial venues have been transferred in this way. Since no document is

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recorded, the RR/CC in many cases is not aware of the transaction. Thus, although the law requires payment of transfer tax, in many such cases no tax is paid.

As a result, homeowners continue to pay the transfer tax on their single family homes and condominiums, while many large corporate entities do not pay a dime of transfer tax on their multi-million and billion dollar portfolios. In all, experts believe that millions of dollars in outstanding transfer tax payments remain uncollected every year.

Several Counties, including Napa and San Francisco, are putting processes in place to pursue collection of unpaid transfer tax. County Counsel advises that a few amendments to County Code are required to make this process workable. Ultimately, however, State legislation may be needed to ensure that implementation of the Documentary Transfer Tax program can be fully achieved.

Under current law, the statute of limitations may place restrictions on how long the County has to collect the transfer tax. Unfortunately, under today's procedures, it may take as long as two to three years before the RR/CC learns that this type of property transfer has occurred. Given the intensity of commercial real estate activity in Los Angeles County in the recent past, the County should act quickly to ensure that valuable transfer tax dollars are not lost forever.

I, THEREFORE, MOVE that the Board of Supervisors direct the Chief Executive Office to convene a working group including the Office of the Assessor, Registrar-Recorder/County Clerk, Auditor-Controller, Treasurer-Tax Collector and County Counsel to further research transfer tax enforcement and report back to the Board within 45 days on the following:

- Recommendations for improving the process to enforce transfer tax collections, including, but not limited to, recommendations for County Ordinance and State

legislative amendments where appropriate;

- An estimate of the amount of outstanding transfer tax owed to the County, and of what the amount of future transfer tax collections might be; and
- A recommended timeline for implementation.

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